

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DEMICKO BILLIE THOMAS,	)	CASE NO. C04-1091-JLR-MAT
	)	
Plaintiff,	)	
	)	
v.	)	MINUTE ORDER
	)	
PAUL SEWELL, et al.,	)	
	)	
Defendants.	)	
_____	)	

The following Minute Order is made by direction of the court, the Honorable Mary Alice Theiler, United States Magistrate Judge:

Defendants have filed a motion for summary judgment. (Dkt. 60.) Plaintiff did not file an opposition brief or evidence responding to the arguments and evidence presented in defendants' motion. Instead, plaintiff filed affidavits requesting a continuance under Fed. R. Civ. P. 56(f) to conduct additional discovery and to obtain other evidence. (Dkt. 66 & 67.)

In general, Rule 56(f) requires the party opposing a summary judgment motion "to show that additional discovery would uncover specific facts which would preclude summary judgment." *Maljack Prods., Inc. v. Goodtimes Home Video Corp.*, 81 F.3d 881, 888 (9<sup>th</sup> Cir. 1996). Here, plaintiff has not identified how the additional discovery he seeks would preclude entry of summary judgment in favor of defendants. Although plaintiff maintains that it is imperative that he be provided with the opportunity to conduct depositions and that other information he is seeking to

01 obtain would prove “very damaging” to defendants (Dkt. 67), such conclusory assertions are not  
02 sufficient to meet his burden under Rule 56(f). Instead, plaintiff must describe the specific facts  
03 he is seeking to obtain and how those facts would preclude entry of summary judgment in favor  
04 of defendants.

05 Defendants also note that plaintiff’s pending discovery requests were served more than a  
06 week after the discovery cut-off of February 10, 2005. Plaintiff does not explain why these  
07 requests were not served earlier. A Rule 56(f) request may be denied if the party seeking a  
08 continuance did not seek discovery diligently. *See, e.g., Mackey v. Pioneer Nat’l Bank*, 867 F.2d  
09 520, 524 (9<sup>th</sup> Cir. 1989).

10 However, in light of plaintiff’s *pro se* status, the Court grants plaintiff leave to file an  
11 amended pleading that complies with the requirements of Rule 56(f) and addresses the deficiencies  
12 noted above. This pleading must be filed and served no later than **Wednesday, May 18, 2005**.  
13 Defendants may file a response to this amended pleading no later than **Thursday, May 26, 2005**.  
14 Defendants’ motion for summary judgment is renoted on the Court’s motion calendar for **Friday,**  
15 **May 27, 2005**.

16 DATED this 9th day of May, 2005.

17  
18 BRUCE RIFKIN, Clerk

19 By s/ Gary W. Burnopp  
20 Deputy Clerk  
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